

JS 44 (Rev. 06/17)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Francie Meth

(b) County of Residence of First Listed Plaintiff Mercer
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Frank Lagano, Law Offices of Frank Lagano, One Gateway Center Suite 2600-112, Newark, NJ 07102, (973) 679-7324

DEFENDANTS

Thomas Jefferson University Hospitals, Inc.; Susan West, M.D.; Donald Ye, M.D.; Courtney Pendleton, M.D.

County of Residence of First Listed Defendant Philadelphia
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Brett M. Littman, Esquire, O'Brien & Ryan, LLP, 2250 Hickory Road, Ste 300, Plymouth Meeting, PA 19462, (610) 834-6265

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|---------------------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input checked="" type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding
- ☒ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. 1332, 1441

Brief description of cause:

Medical malpractice involving neurosurgery

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$
NONE

CHECK YES only if demanded in complaint:
 JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

12/20/2017

SIGNATURE OF ATTORNEY OF RECORD

/s/ Brett M. Littman

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

FRANCIE METH	:	
	:	
PLAINTIFF	:	CIVIL ACTION
	:	
v.	:	
	:	
THOMAS JEFFERSON UNIVERSITY	:	
HOSPITALS, INC.; COURTNEY	:	
PENDLETON, M.D.; DONALD YE, M.D.;	:	
SUSAN E. WEST, M.D.; JOHN AND JANE	:	
DOES 1-10 AND	:	
ABC ENTITIES 1-10	:	
	:	
DEFENDANTS	:	JURY TRIAL DEMANDED

NOTICE OF REMOVAL

Defendants, Thomas Jefferson University Hospitals, Inc.; Courtney Pendleton, M.D.; Donald Ye, M.D.; and Susan E. West, M.D., pursuant to 28 U.S.C. §§ 1332 and 1441, hereby give notice of their removal of this action to this Court. In support of removal, Defendants aver as follows:

1. On May 26, 2017, plaintiff, Francie Meth, filed a complaint in the Superior Court of New Jersey, Law Division, Mercer County, Docket No.: MER-L-001101-17. A true and correct copy of Plaintiff's Civil Action Summons, Civil Case Information Statement, and Complaint are attached hereto as Exhibit "A."

2. The defendants are Thomas Jefferson University Hospitals, Inc.; Courtney Pendleton, M.D.; Donald Ye, M.D.; Susan E. West, M.D.; John and Jane Does 1-10; and ABC Entities 1-10. *See* Exhibit A.

3. Plaintiff served Defendant, Thomas Jefferson University Hospitals, Inc., with the Complaint and related documents identified as Exhibit A via Certified Mail, Return Receipt

Requested, on November 27, 2017. *See* Correspondence, dated November 17, 2017 from Plaintiff's counsel and marked "Received" on November 27, 2017, which is attached hereto as Exhibit "B."

Complete Diversity of Citizenship Exists

4. Plaintiff is a citizen of the State of New Jersey. *See* Exhibit A, ¶ 1.
5. Courtney Pendleton, M.D. is a citizen of the Commonwealth of Pennsylvania.
6. Donald Ye, M.D. is a citizen of the Commonwealth of Pennsylvania.
7. Susan E. West, M.D. is a citizen of the Commonwealth of Pennsylvania.
8. Thomas Jefferson University Hospitals, Inc. is a non-profit corporation organized under the laws of the Commonwealth of Pennsylvania with its principal place of business in the Commonwealth of Pennsylvania.

9. Therefore, Thomas Jefferson University Hospitals, Inc. is a citizen of the Commonwealth of Pennsylvania only.

10. The "John Doe" and "ABC entities" defendants are irrelevant for the purposes of determining diversity. *See* 28 U.S.C. § 1441(b)(1) ("In determining whether a civil action is removable on the basis of the jurisdiction under section 1332(a) of this title, the citizenship of defendants sued under fictitious names shall be disregarded.").

11. Accordingly, the citizenship of Plaintiff and Defendants is completely diverse.

The Amount in Controversy Exceeds \$75,000

12. This action satisfies the amount-in-controversy requirement. *See* 28 U.S.C. § 1332.

13. For the purposes of determining the amount in controversy, the allegations set forth in the plaintiff's complaint must be accepted as true. *See Steel Valley Auth. v. Union Switch & Signal Div.*, 809 F.2d 1006, 1010 (3d Cir. 1987).

14. This is a medical malpractice action. *See* Exhibit A.

15. Plaintiff alleges that Defendants were negligent in her care and treatment. *See* Exhibit A.

16. Plaintiff alleges that she underwent a left frontal craniotomy surgery. *See* Exhibit A, ¶ 8.

17. According to Plaintiff's Complaint, Ms. Meth developed an infection, which necessitated a second revision surgery, which required significant removal of additional bone from her head. *See* Exhibit A, ¶ 10-13.

18. Plaintiff further alleges that Defendants' alleged negligence caused her to "suffer serious and painful injuries, of a permanent and disabling [sic] nature, as well as emotional upset, emotional distress, physical distress and anxiety. She has and will in the future be required to incur expenses to treat the injuries sustained by her and has been unable to attend to her usual occupation and affairs, and has received and will receive in the future gratuitous services from her family and others, and will be deprived of her ability to enjoy the full pleasures and quality of life." Exhibit A, ¶ 17.

19. Plaintiff's Complaint does not specify the amount of her alleged damages. *See* Exhibit A.

20. "[T]he amount in controversy is not measured by the low end of an open-ended claim, but rather by a reasonable reading of the value of the rights being litigated." *Angus v. Shiley Inc.*, 989 F.2d 142, 146 (3d Cir. 1993)(citing *Hunt v. Washington State Apple Advertising*

Comm'n, 432 U.S. 333, 347, 97 S. Ct. 2434, 53 L.Ed. 2d 383 (1977))(additional citations omitted).

21. Unless the plaintiff explicitly limits the amount of damages sought, a case may be remanded only if it is a legal certainty that the plaintiff cannot recover more than the jurisdictional amount of \$75,000. *See Frederico v. Home Depot*, 507 F.3d 188, 199 (3d Cir. 2007) (citing *St. Paul Mercury Indem. Co. v. Red Cab Co.*, 303 U.S. 283, 58 S. Ct. 586 (1938)).

22. Plaintiff alleges that Defendants' negligence caused her to suffer permanent injuries, including alleged past and alleged future harm. *See Exhibit A*.

23. Plaintiff seeks both economic and non-economic damages. *See Exhibit A*.

24. Given Plaintiff's demand for wide-ranging damages, including non-economic damages, and damages for ongoing harm, the potential damages which Plaintiff could recover in this action are significant.

25. Therefore, the Court can and should find that the amount in controversy in this action exceeds \$75,000.

Removal Jurisdiction Exists and Removal Is Proper

26. Pursuant to 28 U.S.C. § 1446(b), this Notice of Removal is timely filed within thirty days of Defendants' receipt of Plaintiff's Complaint, the initial pleading, on November 27, 2017.

27. Removal is proper pursuant to 28 U.S.C. § 1441(b) in cases where "the district courts have original jurisdiction." This Court has original jurisdiction of this matter pursuant to 28 U.S.C. § 1332 because complete diversity of citizenship exists and the amount in controversy exceeds \$75,000.

28. This Notice of Removal meets all requirements set forth in 28 U.S.C. § 1446(b), including the attachment of a copy of all process, pleadings, and orders served upon Defendants in the underlying state court proceedings. *See* Exhibits A.

29. All defendants consent to the removal of this action.

30. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal will be filed with the Superior Court of New Jersey, Law Division, Mercer County, and written notice will be given to Plaintiff.

31. Nothing contained in this Notice of Removal should constitute a waiver of personal jurisdiction by Defendants.

WHEREFORE, Defendants hereby remove this action to the United States District Court for the District of New Jersey.

Respectfully submitted,

O'BRIEN & RYAN, LLP

s/ Brett M. Littman
BRETT M. LITTMAN
Hickory Pointe
2250 Hickory Road, Suite 300
Plymouth Meeting, PA 19462
(610) 834-8800
(610) 834-1749 (fax)
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Attorney for Defendants,
Thomas Jefferson University
Hospitals, Inc.; Courtney
Pendleton, M.D.; Donald Ye,
M.D.; and Susan E. West, M.D.

Dated: December 20, 2017

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

FRANCIE METH	:	
	:	
PLAINTIFF	:	CIVIL ACTION
	:	
v.	:	
	:	
THOMAS JEFFERSON UNIVERSITY	:	
HOSPITALS, INC.; COURTNEY	:	
PENDLETON, M.D.; DONALD YE, M.D.;	:	
SUSAN E. WEST, M.D.; JOHN AND JANE	:	
DOES 1-10 AND	:	
ABC ENTITIES 1-10	:	
	:	
DEFENDANTS	:	JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I, Brett M. Littman, Esquire, hereby certify that I caused a copy of the foregoing Notice of Removal to be served this day, via electronic filing and United States First Class Mail, postage pre-paid, upon the following:

Frank Lagano, Esquire
Law Offices of Frank Lagano
One Gateway Center
Suite 2600-112
Newark, NJ 07102

O'BRIEN & RYAN, LLP

s/ Brett M. Littman

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blittman@obrlaw.com

Attorney for Defendants,

Thomas Jefferson University

Hospitals, Inc.; Courtney

Pendleton, M.D.; Donald Ye,

M.D.; and Susan E. West, M.D.

Dated: December 20, 2017